

**REPORT - PLANNING COMMISSION MEETING
November 6, 2003**

Project Name and Number: Pacific Commons Wetland Phase 3 (PLN2004-00009)

Applicant: Catellus Development Corporation

Proposal: Extension of a Preliminary Grading Plan for the Pacific Commons Wetlands Restoration Phase 3.

Recommended Action: Approve based on findings and subject to conditions.

Location: Southwest of Auto Mall Parkway and the Cushing Parkway Bridge.

Assessor Parcel Number(s): 525-1326-008-00, 525-1326-007-01, 525-1325-001-02, 525-1325-009-05, 531-0185-005-07, 531-0185-005-03, 531-0185-004-04, 531-0185-004-05, 531-0185-011-01.

Area: 160 acres.

Owner: Catellus Development Corporation

Agent of Applicant: Jason Johannessen

Consultant(s): Michael Josselyn, Wetlands Research Associates
Joe DeMaggio, Stetson Engineers.
Toby Hanes, Hydroscience.
Greg Sutter, Wetlands Inc.

Environmental Review: An EIR and Supplemental EIR were previously approved for this project as part of the Pacific Commons Project.

Existing General Plan: Institutional Open Space (Wetlands Preserve)

Existing Zoning: Planned District (P-2000-214, as amended)

Existing Land Use: Vacant Land

Public Hearing Notice: Public hearing notification is applicable. A total of 18 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Auto Mall Circle, Nobel Drive, and Cushing Parkway. The notices to owners and occupants were mailed on October 27, 2003. A Public Hearing Notice was delivered to The Argus on October 20, 2003 to be published by October 23, 2003.

Executive Summary: The Preliminary Grading Plan was previously approved on July 12, 2001, which included a specific condition indicating that the approval would lapse in 24 months from the date of Planning Commission approval. The majority of the Phase 3 Wetlands has been constructed to date. The portion that has not been constructed is the fill of the N-1 channel. The N-1 channel cannot be filled until the ultimate storm drainage system is constructed. Currently, the ultimate storm drainage system is planned to be constructed in 2005. Therefore, the applicant is requesting that the previously approved Preliminary Grading Plan for Phase 3 be extended to allow the fill of the N-1 channel in the future, which is a part of the Phase 3 Wetlands Preliminary Grading Plan.

Background and Previous Actions: In May 2000, City Council certified a supplemental EIR, amended the General Plan and established a Planned District for a mixed-use industrial, commercial and open space project on approximately 763 acres known as the Pacific Commons development. Although there has been various Planned District Amendments since

May 2000, none have affected the Wetlands Area. Since the 2000 entitlements became effective the developer has been proceeding with various aspects of the project since that time.

The phasing of construction of the wetlands at Pacific Commons was based on four phases, each phase equivalent to one construction season. Phase 1 of the Wetlands Preserve was conducted as a pilot study in the fall of 1998 and the Planning Commission approved the Preliminary Grading Plan for Phase 2 of the same project on September 28, 2000. Phases 1 & 2 have both been completed and are currently in the monitoring stage. The Planning Commission, as noted earlier in the report, previously approved the Preliminary Grading Plan for Phase 3, on July 12, 2001. The Conditions of Approval included the following condition: *"The approval of the Preliminary Grading Plan shall terminate 24 months from the date of approval by the Planning Commission."* Therefore, since not all of the work has been completed and the time period had lapsed staff felt it necessary to bring the project back to Planning Commission for approval for an extension. The Preliminary Grading Plan for Phase 4 of the Wetlands Preserve was approved by Planning Commission on May 23, 2001.

Project Description: The Pacific Commons project is comprised of a mixed-use, commercial, industrial and research and development and wetlands preserve on approximately 763 acres of land. The developable portion entails the development of approximately 373 acres. In addition to the retail, office and industrial development, the overall Pacific Commons project includes substantial restoration or mitigation of wetlands impacts and the creation of a wetland preserve consisting of approximately 390 acres. The goal of the restoration project is to establish an on-site wetland-upland mosaic comprising vernal pools, connecting swales, and other seasonal wetland habitats in addition to level and mounded upland topography. The entire restoration project is to take place in four phases.

Phase 1 has already been completed. In the fall of 1998, eighteen seasonal wetlands were constructed on a portion of the Stem Parcel as a part of a pilot study to determine that such wetlands would have similar ecological functions to those of the reference site on the adjacent Don Edwards San Francisco Bay National Wildlife Refuge. Two years of monitoring found that most of the wetlands were meeting design criteria. Phase 2 was completed in May 2001 and monitoring reports are forthcoming for this area.

The Phase 3 portion of the Wetlands Restoration project includes the creation and restoration of wetlands. The work includes the wetlands restoration, fill of the N-1 Channel, and the embankments for the Cushing Bridge over the Wetlands Preserve. Phase 4 of the Wetlands Restoration Project is the last phase of the restoration project within the Pacific Commons site. All of Phase 3 has been constructed except for the fill of the N-1 channel. Most of Phase 4 has been constructed to date.

Project Analysis: The Pacific Commons Wetlands Restoration for Phase 3 implements the resource agency requirements set forth in the 2000 Supplemental EIR.

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Institutional Open Space (Wetlands Preserve). The proposed project is consistent with the existing General Plan land use designation for the project site because this Preliminary Grading Plan for the creation and restoration of wetlands implements the following General Plan Goals, Objectives and Policies;

Fundamental Goals

Fundamental Goal 2: An harmonious blend of the natural and built environment.

Fundamental Goal 7: An open space frame that includes the Hillface, Bay Wetlands and Gateways.

Chapter 7: Open Space

Open Space (OS) Goal 2: Recognition, protection, and enhancement of significant natural areas and wildlife habitats in the city, including Bay tidal, seasonal, and freshwater wetlands, and open meadows and fields.

Objective OS 2.2: Protection and enhancement of wetlands within the city.

Policy OS 2.2: The City shall take an active role in protecting wetlands. There shall be no net loss of wetlands as a result of development in Fremont.

Chapter 9: Natural Resources:

Objective NR 1.1: Protection of wetlands, including watercourses and riparian areas for their critical biological values including their uses as habitat for rare or endangered animals and to maintain connections between habitat units.

Policy NR1.1.1: Whenever feasible, natural and semi-natural wetland areas, including riparian corridors, vernal pools and their wildlife habitat shall be preserved or impacts minimized.

Policy NR 2.2.2: Minimize impacts of development in uplands adjacent to or associated with seasonal and other wetlands.

- **Zoning Regulations:** The Fremont Municipal Code 8-4108(a)(1) requires a Preliminary Grading Plan be approved by the Planning Commission for projects involving over 1,000 cubic yards of fill. The proposed Preliminary Grading Plan to construct and restore wetlands associated with the Pacific Commons project was a part of the Planned District Zoning (P-2000-214) that was approved for the site.
- **Engineering Considerations:** The intention of the Planning Commission's approval of the Preliminary Grading Plan is to have the final grades of the subject development conform to the proposed Preliminary Grading Plan. However, grading deviations up to a maximum of 1 foot may be allowed, subject to the approval of the City Engineer.

The topography of the site proposed for the wetland creation/restoration is flat. Grading work will consist of cuts and fills of less than 8 feet. The estimated earthwork quantities are 340,000 cubic yards of fill and cut.

Resource Agency Review: Approval is required from the United States Fish and Wildlife Services and the Regional Water Quality Control Board for the Phase 3 Grading Plan and revised phasing limits indicated in the plan. Although these resource agencies have jurisdiction over their individual requirements, the applicant is required to inform the City of the status of the required approvals. Approvals from both the United States Fish and Wildlife Services and the Regional Water Quality Control Board for the Phase 3 Grading Plans were received prior to issuance of the grading permit and approval of the Grading Plan. Approvals from both the United States Fish and Wildlife Services and the Regional Water Quality Control Board will be required prior to the approval of the grading plan for the fill of the N-1 channel. A condition of the approval has been included to address this concern.

Environmental Analysis: An EIR and Supplemental EIR were previously approved (in 1996 and 2000, respectively) for this project as part of the Pacific Commons project. It should also be noted that issuance of a grading permit will be conditioned to comply with air and water quality regulations.

Response from Agencies and Organizations: Responses have been received from the Regional Water Quality Control Board. Appropriate Conditions of Approval from these agencies have been incorporated into Exhibit "B".

Enclosures:

Exhibit "A" (Grading Plan)
Exhibit "B" Findings and Conditions

Exhibits:

Exhibit "A" Grading Plan
Exhibit "B" Findings and Conditions

Recommended Actions:

1. Hold public hearing.
2. Find that the extension of the Preliminary Grading Plan for the Pacific Commons Wetlands Restoration Phase 3 was analyzed as part of the EIR and Supplemental EIR prepared for Pacific Commons in the 1996 and 2000 and find that there are no significant changes in the extension of the Preliminary Grading Plan for Phase 3 restoration than were previously analyzed in these documents.
3. Find PLN2004-00009 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use, Open Space, and Natural Resources Chapters as enumerated within the staff report.
4. Approve PLN2004-00009, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

EXHIBIT "B"
Findings and Conditions of Approval for
PLN2004-00009 (Preliminary Grading Plan)
Catellus Development Corporation

FINDINGS:

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated November 6, 2003, incorporated herein.

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones on the site, which might be aggravated by the grading of the development. A soil study will be conducted and submitted to the City with the Final Map.
3. The proposed project described in the application will not endanger public sewers, storm drains, water courses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. The City Engineer upon City review of the reports may require supplemental data and substantiation of conclusions. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

CONDITIONS:

1. Conformance with Exhibit "A", Preliminary Grading Plan.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed construction design. A Grading Permit application shall be submitted to the City, subject to the review and approval by the City Engineer.
3. The final grading plan may be completed in phases, subject to the review and approval by the City Engineer.
4. Grading operations shall be supervised by an engineer registered in the State of California to do such work.
5. The applicant shall provide for a functional system to control erosion and siltation during any grading work. A separate plan shall be submitted by the applicant for this purpose and shall be subject to the review and approval by the City Engineer. All erosion control measures shall be in place by October 1, of each construction season.

6. The applicant shall provide adequate dust control measures at all times during the grading and hauling operations. Any violation shall be subject to the suspension of the grading permit.
7. The source and haul route for the import fill or export removal shall be subject to the approval of the City Engineer prior to the issuance of the grading permit.
8. Construction operations shall be limited to the following hours:
7:00a.m. to 7:00p.m.—Monday through Friday
9:00a.m. to 6:00p.m.—Saturday and Sunday
9. Prior to issuance of a grading permit for land disturbance greater than five acres, the developer is to provide evidence that a Notice of Intent has been filed with the State of California Water Resources Control Board. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
10. Prior to demolition, excavation and grading on any portion of the project site, all underground obstruction (i.e., debris, septic tanks, fuel tanks, barrels, chemical waster) shall be identified and removed pursuant to Federal, State, and local regulations and subject to the review and approval by the City's Hazardous Materials Division. Excavations shall be properly backfilled using structural fill, subject to the review and approval of the City Engineer.
11. Grading operations should not undermine the bank slope stability condition of the adjacent District Line N-1 earth-lined channel nor the integrity of the maintenance gravel access road located at the northerly boundary of the project site, until the N-1 channel is filled.
12. The Alameda County Flood Control District's maintenance access road should not be used as ingress and egress for the hauling, stockpiling and disposal of soil materials necessary for the grading operations.
13. The applicant should provide measures to prevent the discharge of sediments and/or untreated water, and contaminated materials directly into the District Line N-1 drainage facility. It is the responsibility of the applicant to comply with Federal, State, or local water quality standards and regulations.
14. Any damage to the Flood Control District's existing facilities and appurtenances resulting from the grading activities for the proposed wetlands preserve restoration will have to be restored by the applicant to the original, or better condition.
15. The approval of the Preliminary Grading Plan shall terminate when the Vesting Tentative Tract Map 7200 terminates.
16. The applicant shall provide evidence that all approvals from the U.S. Fish and Wildlife Service and the Regional Water Quality Control Board that are required for this grading are in place prior to the issuance of a grading permit.
17. The applicant shall provide evidence that the revised phasing limits have been approved by the U.S. Fish and Wildlife Service, prior to the issuance of a grading permit.
18. The applicant shall consult with the Fremont Fire and Police Departments to determine appropriate access to the site for emergency response prior to the commencement of grading activities.
19. The applicant shall get Encroachment Permits from PG&E, Union Sanitary District (USD), Air Products, and Alameda County Flood Control and Water Conservation District prior to the issuance of a grading permit.
20. The final grading plans are required to be prepared, signed and stamped by a California-licensed Civil Engineer.

21. Any stockpiling or placement of the asphalt to be removed from the preserve, on Pacific Commons, is subject to review and approval by the City Engineer.
22. The wetlands transition slope (3(H): 1(V) maximum) along the northern boundary of the Wetlands Preserve will require approval by the resource agencies (U.S. Fish and Wildlife Service and the Regional Water Quality Control Board) prior to issuance of a grading permit.

End of Conditions

[illegible]

Existing General Plan
Shaded Area represents the Project Site

